

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF VIRGINIA

Alexandria Division

UNITED STATES OF AMERICA)	
)	
v.)	CRIMINAL NO. 1:04CR496
)	
ROBERT GEOFFREY LAYNE,)	
)	
Defendant.)	

STATEMENT OF FACTS

The United States and the defendant, Robert Geoffrey Layne ("Layne"), agree that had this matter proceeded to trial, the United States would have proven the facts set forth in this statement of facts beyond a reasonable doubt. Unless otherwise stated, the time periods for the facts set forth herein are at all times relevant to the charge in the Information.

I. BACKGROUND

(1) From about January 1997 until about May 2001, Layne was employed at PurchasePro.com, an internet software company headquartered in Las Vegas, Nevada ("PurchasePro"). Layne was a "co-founder" of PurchasePro and eventually held the position of Executive Vice President at PurchasePro.

(2) In 2000 and 2001, PurchasePro was engaged in the sale of sourcing software, materials management and procurement software and services. PurchasePro's common stock traded on the Nasdaq National Market under the symbol "PPRO".

(3) By mid-2000 and continuing through 2001, PurchasePro's principal product was a so-called business-to-business "marketplace license". As promoted by PurchasePro, the business-to-business marketplace license allowed small and large businesses to buy and sell products on the internet in an allegedly cost efficient manner. PurchasePro sold software to marketplace license purchasers that allegedly enabled those purchasers either to buy and sell products by participating directly in PurchasePro's own web-site based marketplace or to create their own branded marketplace using PurchasePro's software.

(4) As a senior officer at PurchasePro, Layne was in charge of mergers and acquisitions and was responsible for business generation and certain high level sales transactions.

(5) As a public company, PurchasePro was required to comply with the rules and regulations of the United States Securities and Exchange Commission ("SEC"). Those rules and regulations are intended to protect members of the investing public by, among other things, requiring that a company's financial statements accurately be recorded and reported to the investing public. PurchasePro made periodic filings with the SEC, which included, among other things, its financial statements.

(6) As a public company, PurchasePro retained an independent public accounting firm to act as PurchasePro's independent outside auditors ("PurchasePro's auditors"). Among other responsibilities, PurchasePro's auditors were required to decide whether to approve the recognition of revenue resulting from the sale of marketplace licenses in PurchasePro's audited financial statements. Generally speaking, Layne and other senior members of PurchasePro's management knew that the existence of other transactions related to the sale of a marketplace license was significant to the decision of PurchasePro's auditors whether to approve

recognition of all, some or none of the revenue from the sale of a marketplace license. Layne admits that he and other senior members of PurchasePro's management had the ultimate responsibility for proper revenue recognition of PurchasePro's sales and for the reporting of accurate financial statements to the public.

II. THE SCHEME TO DEFRAUD

(7) From in or about January 2001 to in or about June 2001, in the Eastern District of Virginia and elsewhere, Layne admits that he, other senior members of PurchasePro's management and others conspired to and did in fact employ a device, scheme or artifice to defraud shareholders of PurchasePro securities in connection with the purchase and sale of PurchasePro securities, using the means and instrumentalities of interstate commerce, in violation of 15 U.S.C. §§ 78j(b) and 78ff and 17 C.F.R. § 240.10b-5. Layne admits that he and his co-conspirators committed acts in furtherance of the conspiracy and the scheme, as described further below.

(8) Layne admits that he and his co-conspirators falsely inflated the revenue, which PurchasePro recognized and announced to the investing public from the sale of PurchasePro marketplace licenses and other products.

(9) In order to induce purchasers to buy the PurchasePro marketplace licenses, Layne and his co-conspirators made oral and written commitments that PurchasePro would, among other things, do one or both of the following: (i) buy nearly an equivalent or greater amount of products from the license purchasers and (ii) provide on-line advertising to the license

purchasers. Collectively, these commitments shall hereinafter be referred to as "side agreements".

(10) At the time, Layne understood that he and other senior executives at PurchasePro were responsible for bringing the side agreements to the attention of PurchasePro's auditors. Pursuant to the instructions of a senior officer at PurchasePro ("PurchasePro executive officer"), Layne admits that he and certain of his co-conspirators agreed to and did in fact deceive PurchasePro's auditors by failing to disclose the existence of the side agreements to the auditors. Layne further admits that he and certain of his co-conspirators agreed to and did in fact deceive PurchasePro's auditors because Layne and certain of his co-conspirators believed that disclosure of the side agreements would cause PurchasePro's auditors to disapprove of or defer the revenue recognition for the full amount of the sales of marketplace licenses and other products. Layne admits that he and certain of his co-conspirators discussed disclosure of the side agreements to PurchasePro's auditors and, pursuant to the instructions of the PurchasePro executive officer, they agreed not to disclose the side agreements to the auditors.

(11) Layne admits that at the time, he and certain of his co-conspirators believed that if PurchasePro's auditors did not approve the revenue from the sales of marketplace licenses and other products, then PurchasePro would likely fail to meet its announced quarterly revenue projections. Layne further admits that he and certain of his co-conspirators believed that the more PurchasePro failed to meet its announced quarterly revenue projections and the lower the amount of revenue that PurchasePro announced to the public, the greater the likelihood that the price of PurchasePro's publicly-traded stock would decline in value.

(12) Layne admits that the conspiracy and the scheme had multiple goals, including, but not limited to, the following:

(A) Layne admits that it was a goal of the scheme that he and his co-conspirators falsely inflate the revenue reported by PurchasePro to the investing public and in its filings with the SEC for PurchasePro's first quarter of 2001 by a substantial amount. As described in more detail in paragraph 35 below, on or about April 26, 2001, Layne admits that he and his co-conspirators achieved this goal when PurchasePro issued a press release that stated, among other things, that PurchasePro had earned approximately \$29.8 million of revenue in the first quarter of 2001. Layne admits that he and his co-conspirators knew at the time that this April 26, 2001 press release by PurchasePro was substantially false and misleading. Among other reasons, Layne knew that the April 26, 2001 press release was substantially false and misleading because he knew that a substantial portion of the \$29.8 million in announced revenue was improperly recorded as revenue. Layne admits that this goal was achieved, in part, by artificially boosting the sale of marketplace licenses by entering into undisclosed side agreements with the marketplace license purchasers which would in effect make the purchasers either nearly whole or more than whole for the cost of the marketplace licenses and by not disclosing those related side agreements to PurchasePro's auditors and the investing public.

(B) Layne admits that it was also a goal of the scheme to sustain PurchasePro's outward appearance as a growing and successful internet software company in early 2001, even though Layne and his co-conspirators knew that PurchasePro's revenue growth resulted, to a significant degree, from the use of undisclosed side agreements.

(C) Layne admits that it was also a goal of the scheme to meet the revenue estimates for PurchasePro as disseminated to Wall Street and to the investing public. Layne admits that he and certain of his co-conspirators believed that meeting Wall Street's revenue expectations, even by fraudulent means, would support the price of PurchasePro's publicly-traded stock.

(D) Layne admits that it was also a goal of the scheme for he and his co-conspirators to profit personally from their fraud. Layne admits that he could and did in fact profit from this scheme by, among other ways: (i) keeping his job and continuing to receive a salary at PurchasePro; (ii) preserving the possibility of obtaining profitable stock options in the future; and (iii) borrowing approximately \$3.25 million by using his PurchasePro stock and options in PurchasePro stock as collateral.

(13) Layne admits that he received from PurchasePro: (i) a \$100,000 loan in March 2001 in order to exercise options in PurchasePro common stock; (ii) stock options for 75,000 shares of PurchasePro common stock in April 2001; and (iii) a \$200,000 retention bonus in April 2001.

III. ACTS UNDERTAKEN IN FURTHERANCE OF THE SCHEME

The following are some of the specific acts that Layne admits that he undertook or was otherwise involved in and that he admits were committed in furtherance of the scheme:

(14) Layne admits that, in the first quarter of 2001, a major media company headquartered in the United States, which was PurchasePro's strategic partner ("Media Company"), agreed to market and sell PurchasePro's marketplace licenses to the Media

Company's suppliers and partners in order to assist PurchasePro in meeting its revenue goals for the quarter. Layne admits that he and other co-conspirators generally agreed that the Media Company would make side agreements with license purchasers or commit to financial "sweeteners". Alternatively, Layne admits that he and other co-conspirators also discussed the fact that the Media Company was pressuring or "strong-arming" the Media Company's partners and suppliers to buy the marketplace licenses with the threat that the Media Company would partner with or buy its supplies from other entities. Layne admits that, in or about March 2001, Layne discussed the sale of PurchasePro marketplace licenses by means of side agreements made by the Media Company with others within PurchasePro and the Media Company. Among other economic benefits, the Media Company had a direct financial incentive to assist PurchasePro in the sale of its products because the Media Company received a significant commission for every dollar in revenue that PurchasePro recognized from the sale of marketplace licenses with the Media Company's assistance.

(15) In late March 2001, Layne and an officer at the Media Company were responsible for the negotiation of two deals between and among PurchasePro, the Media Company and two companies purchasing a PurchasePro marketplace license. In both deals, Layne knew that each company had a pre-existing business relationship with the Media Company (hereafter, "Media Company Partner"). Layne was told by the officer at the Media Company that the Media Company would provide the Media Company Partners with financial "sweeteners" to induce them to purchase PurchasePro marketplace licenses. The officer at the Media Company also suggested to Layne that PurchasePro commit to buying software or other products from the Media Company Partner as a further inducement to purchase the licenses from

PurchasePro. In this way, both deals had a similar three-way or triangular set of commitments:

(i) the Media Company offered some type of financial “sweetener” to facilitate the purchase of the marketplace license; (ii) PurchasePro promised to buy in the second quarter of 2001 software or other products from the Media Company Partner for an amount nearly equal to or greater than the cost of the marketplace license; and (iii) the Media Company Partner, after receiving commitments from the Media Company and PurchasePro to provide their respective inducements, then agreed to buy a PurchasePro marketplace license.

(16) Layne admits that the first deal with a Media Company Partner described above involved a California-based company that sold internet shopping software (“Internet Shopping Software Company”). Pursuant to this three-way deal negotiated and agreed to in the last days of March 2001, Layne admits that he induced the Internet Shopping Software Company to buy a PurchasePro marketplace license for approximately \$1.1 million in the first quarter of 2001 by, among other inducements, committing that PurchasePro would buy approximately \$1.4 million in software from the Internet Shopping Software Company in April 2001.

(17) Layne admits that the officer of the Media Company suggested in late March 2001 that PurchasePro buy software from the Internet Shopping Software Company in exchange for the commitment by the Internet Shopping Software Company to buy the \$1.1 million marketplace license. Layne further admits that the officer of the Media Company told Layne in late March 2001 that the Media Company would provide the Internet Shopping Software Company with additional financial “sweeteners” for their purchase of the marketplace license. Layne admits that he and the officer at the Media Company further agreed that PurchasePro would only orally commit to buying the software from the Internet Shopping

Software Company and that the parties would first memorialize in writing PurchasePro's commitment to buy the software in the second quarter of 2001 in order to avoid jeopardizing PurchasePro's recognition of the \$1.1 million in revenue from the Internet Shopping Software Company's purchase of the marketplace license.

(18) In order to ensure that the \$1.1 million in revenue was recognized in the first quarter of 2001, Layne and his co-conspirators agreed not to disclose the existence of the other transactions related to the \$1.1 million marketplace license sale to the Internet Shopping Software Company. Layne admits that he did not put the other transactions in writing because, as Layne and his co-conspirators knew, if the PurchasePro's auditors learned of the other transactions, PurchasePro's auditors likely would defer or not approve recognition of some or all of the \$1.1 million as revenue in the first quarter of 2001.

(19) Layne admits that the second deal with a Media Company Partner described above involved a company that sold internet news content and marketing software based in Alexandria, Virginia ("Internet News Content Company"). Pursuant to this three-way deal negotiated and agreed to in the last days of March 2001, Layne admits that he induced the Internet News Content Company to buy a PurchasePro marketplace license for approximately \$440,000 in the first quarter of 2001 by, among other inducements, committing that PurchasePro would buy approximately \$390,000 in software from the Internet News Content Company in April 2001. Layne communicated with a senior officer of the Internet News Content Company, who was located in Alexandria, Virginia at the time, by telephone, facsimile and electronic mail relating to the above-described three-way transaction.

(20) As with the deal with the Internet Shopping Software Company, Layne admits that the same officer of the Media Company as described in paragraph 15 above first suggested in late March 2001 that PurchasePro buy the \$390,000 in software from the Internet News Content Company as a means of inducing the Internet News Content Company to buy a marketplace license from PurchasePro.

(21) Layne further admits that he and the officer of the Media Company discussed how PurchasePro could not appear to be buying the software at the same time as the marketplace license sale to the Internet News Content Company because, in such a case, PurchasePro would not be able to recognize the entire revenue from the sale of the marketplace license. As a result, Layne contacted the senior officer at the Internet News Content Company and informed him, in substance, that PurchasePro wanted to make the simultaneous software transactions appear separate for revenue recognition purposes and, therefore, PurchasePro wanted to wait until the second quarter of 2001 before signing the contract to buy the \$390,000 software from the Internet News Content Company. Layne subsequently informed the officer at the Media Company that the Internet News Content Company agreed to document PurchasePro's software purchase in the second quarter of 2001.

(22) As with the deal with the Internet Shopping Software Company, Layne knew that the Media Company, according to the officer at the Media Company, had offered a financial incentive as a "sweetener" to induce the Internet News Content Company to buy the marketplace license.

(23) In order to ensure that the \$440,000 in revenue was recognized in the first quarter of 2001, Layne and his co-conspirators agreed not to disclose to PurchasePro's auditors

the existence of the other transactions related to the \$440,000 marketplace license sale to the Internet News Content Company. Layne admits that he agreed to not disclose the other related side agreements to PurchasePro's auditors because, as Layne and his co-conspirators knew, if the auditors knew of the other related side agreements, the auditors likely would defer or not recognize some or all of the \$440,000 as revenue in the first quarter of 2001.

(24) In or about early April 2001, Layne admits that the PurchasePro executive officer, who is referenced in paragraph 10 above, provided the Media Company with a PurchasePro corporate check in the amount of approximately \$12.2 million, which the Media Company cashed. Layne admits that approximately \$6.7 million of that check consisted of commissions that PurchasePro paid to the Media Company for marketplace licenses sales in the first quarter of 2001. Layne further admits that, as to many of these marketplace license sales in the first quarter of 2001, one or both of the following were true: (a) Layne and his co-conspirators provided the purchasers of these marketplace licenses with undisclosed financial "sweeteners" or (b) as described below, the marketplace license contracts were not executed by the parties in the first quarter of 2001. As a result, Layne admits that PurchasePro should not have paid the Media Company the approximately \$6.7 million in commissions for these marketplace license sales in the first quarter of 2001.

(25) In or about April 2001, Layne signed marketplace license contracts on behalf of PurchasePro despite the fact that the contracts had been backdated in order to make it appear that the contracts had been executed by both parties prior to the end of PurchasePro's first quarter of 2001, i.e., March 31, 2001. Layne signed these marketplace license contracts at the instruction of the PurchasePro executive officer. Layne understood at the time that PurchasePro

and PurchasePro's auditors would not recognize revenue for a quarter unless the underlying contract supporting the revenue had in fact been executed in writing by the parties by the close of the quarter.

(26) In or about the last week of March 2001, Layne admits that he was asked by the PurchasePro executive officer to put together a contract entitled Statement of Work in pursuit of a scheme to recognize improperly approximately \$3.65 million in additional revenue for PurchasePro in the first quarter of 2001. Pursuant to this fraudulent contract, the Media Company allegedly promised to pay PurchasePro approximately \$3.65 million for integration of auction functionality into the Media Company's internet marketplace for small businesses.

(27) In or about late March 2001, Layne admits that he and his co-conspirators discussed the fact that PurchasePro had sold too few marketplace licenses and other products to meet its publicly-announced revenue projections of approximately \$42 million for the first quarter of 2001. Layne knew that the \$3.65 million that the Media Company allegedly agreed to pay to PurchasePro was a last-minute means to help PurchasePro meet its publicly-announced revenue projections for the quarter.

(28) On or about March 30, 2001, Layne admits that he helped other PurchasePro executives to create the document entitled Statement of Work so that PurchasePro would have documentation to support PurchasePro's \$3.65 million in revenue and so that PurchasePro's auditors would approve recognition of the \$3.65 million in revenue from the Media Company in the first quarter of 2001.

(29) Layne admits that he knew that the Statement of Work had a date of February 5, 2001 on its cover page even though he knew the Statement of Work had not been

compiled or executed between PurchasePro and the Media Company within the first quarter of 2001. Layne admits that he understood at the time that PurchasePro and PurchasePro's auditors would not recognize revenue for a quarter unless the underlying contract supporting the revenue had in fact been executed in writing by the parties by the close of the quarter.

(30) Layne admits that in or about mid-April 2001, he and a vice president at PurchasePro ("PurchasePro vice president") were instructed by the PurchasePro executive officer to create a forged version of the Statement of Work. The PurchasePro executive officer told Layne and the PurchasePro vice president that the forged Statement of Work was needed so that PurchasePro's internal auditors and its outside auditors would recommend the recording of the \$3.65 million in revenue that was associated with the Statement of Work.

(31) Pursuant to the PurchasePro executive officer's instructions, Layne and the PurchasePro vice president cut and pasted the signature of a senior officer from the Media Company ("Media Company senior officer") from a document previously provided to PurchasePro by the Media Company senior officer and created a version of the Statement of Work containing that officer's forged signature. Layne and the PurchasePro vice president later showed the forged Statement of Work to the PurchasePro executive officer who approved of the use of the document for purposes of recording the \$3.65 million in revenue associated with the Statement of Work.

(32) At the request of the PurchasePro executive officer, Layne and the PurchasePro vice president generated other documents with a forged signature of the Media Company senior officer. These forged documents related to payments by PurchasePro to the Media Company concerning marketplace license sales and other transactions between the two

companies in the first quarter of 2001. Layne and the PurchasePro vice president also showed these forged documents to the PurchasePro executive officer who instructed Layne and the PurchasePro vice president to provide the forged documents to PurchasePro's internal auditors.

(33) In furtherance of the scheme described herein, by submitting to PurchasePro's internal auditors the forged Statement of Work, Layne and his co-conspirators caused a letter dated April 10, 2001 to be mailed by regular United States Postal Service mail on or about April 13, 2001 from Las Vegas, Nevada to the offices of the Media Company in Dulles, Virginia. The letter sought, among other things, written confirmation from the Media Company that PurchasePro and the Media Company had executed a contract, i.e., the Statement of Work, in the amount of \$3.65 million. Layne admits that he understood that similar confirmation letters were routinely required and relied upon by PurchasePro's auditors and generally recognized they would be mailed to the Media Company for them to confirm transactions. The April 10, 2001 letter asked the Media Company to confirm or otherwise acknowledge something Layne knew was false because, among other reasons, the Statement of Work had been forged by Layne and the PurchasePro vice president at the instructions of the PurchasePro executive officer.

(34) In or about late April 2001, Layne discussed with others the fact that PurchasePro's auditors were seeking oral confirmation from the Media Company relating to the fraudulent Statement of Work. Layne admits that he was asked to arrange for an officer at the Media Company to discuss with one of PurchasePro's auditors the Statement of Work. Layne admits that he was asked by the officer at the Media Company, who is the same officer of the Media Company identified in paragraphs 15 and 20 above, to provide the answers that he should give to PurchasePro's auditors. Layne admits that he spoke with a senior PurchasePro financial

officer in order to obtain the answers requested by the officer of the Media Company and provided this information to the officer of the Media Company. Thereafter, Layne admits that he, the PurchasePro auditor and the officer of the Media Company participated in a telephone conversation in which the auditor asked, among other questions, whether the work pursuant to the Statement of Work had been completed in the first quarter of 2001 and the officer at the Media Company lied to PurchasePro's auditor by falsely confirming that the work had been completed within the quarter.

(35) On or about April 26, 2001, PurchasePro issued a press release that stated, among other things, that PurchasePro had earned approximately \$29.8 million of revenue in the first quarter of 2001. Layne admits that he and his co-conspirators knew at the time that this April 26, 2001 press release by PurchasePro was substantially false and misleading. Among other reasons, Layne knew that the April 26, 2001 press release was substantially false and misleading because Layne knew that a substantial portion of the \$29.8 million in announced revenue was improperly recorded as revenue. Specifically, Layne knew at the time that PurchasePro had achieved the revenue by selling PurchasePro marketplace licenses by means of undisclosed side agreements. Layne further admits that he also knew the press release was materially false and misleading because the approximately \$29.8 million announced as revenue included approximately \$3.65 million in revenue associated with the forged Statement of Work, approximately \$1.1 million in revenue from the marketplace license sale to the Internet Shopping Software Company and approximately \$440,000 in revenue from the marketplace license sale to the Internet News Content Company. Layne knew at the time that the investing public would rely upon PurchasePro's overstated revenue.

(36) In or about May 2001, a special committee of the Board of Directors of PurchasePro (“special committee”) was formed in order to inquire as to certain events surrounding PurchasePro’s revenue for the first quarter of 2001. Also in or about May 2001, the PurchasePro executive officer told the PurchasePro vice president and Layne that, if asked, they should lie about the forged Statement of Work and the other forged documents relating to the Media Company. On or about May 16, 2001, attorneys representing the special committee interviewed Layne and asked him questions about, among other things, the Statement of Work. Layne lied to the attorneys for the special committee about his knowledge of the forged Statement of Work and later told the PurchasePro executive officer that he had lied to the special committee.

(37) On or about May 29, 2001, PurchasePro filed with the SEC its Form 10-Q for its quarter ending on March 31, 2001, which, included, among other things, the company’s financial statements for that quarter. PurchasePro reported in this Form 10-Q that it had earned only about \$16 million in revenue for the quarter versus the approximate \$29.8 million in revenue for the quarter that the company had reported in its press release on or about April 26, 2001. PurchasePro reduced its reported revenue for the quarter to \$16 million, in part, based on its decision that it could not recognize the approximate \$3.65 million in revenue from the forged Statement of Work and the approximate \$1.1 million from the marketplace license sale to the Internet Shopping Software Company.

(38) On or about February 26, 2002, Layne provided sworn testimony to the SEC in connection with an SEC investigation relating to PurchasePro. In that sworn testimony, the SEC attorney conducting the examination asked Layne about whether he understood whether

the signature of the Media Company senior officer was forged on the Statement of Work and Layne lied to the SEC attorney when he said “no” to the SEC’s attorney’s question.

(39) On or about December 12, 2003, the Federal Bureau of Investigation (“FBI”), in the presence of attorneys from the United States Attorney’s Office, the United States Department of Justice and the SEC, interviewed Layne in the Eastern District of Virginia. The FBI asked Layne whether he had cut and paste a signature on the Statement of Work and Layne lied when he told the FBI that he had not cut and paste any signatures on the Statement of Work.

IV. CONCLUSION


(40) Layne admits that this statement of facts does not represent and is not intended to represent an exhaustive factual recitation of all the facts about which he has knowledge relating to the scheme to defraud shareholders of PurchasePro securities described herein.


(41) Layne admits that his actions, as recounted herein, were in all respects intentional and deliberate, reflecting an intention to do something the law forbids, and were not in any way the product of any accident or mistake of law or fact.

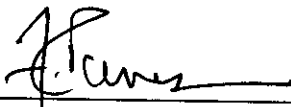
(42) The foregoing statement of facts is a summary of the principal facts that constitute the legal elements of the offense of securities fraud. This summary does not include all of the evidence that the government would present at trial or all of the relevant conduct that would be used to determine the defendant's sentence under the Sentencing Guidelines and Policy Statements.

Respectfully submitted,

PAUL J. MCNULTY
UNITED STATES ATTORNEY

By: 
Dana J. Boente
Assistant United States Attorney

By: 
Charles F. Connolly
Assistant United States Attorney

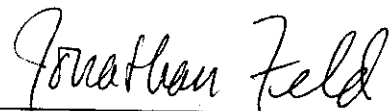
By: 
Adam A. Reeves
Trial Attorney, Criminal Division
United States Department of Justice

After consulting with my attorney and pursuant to the plea agreement entered into this day between the defendant, Robert Geoffrey Layne and the United States, I hereby stipulate that the above Statement of Facts is true and accurate, and that had the matter proceeded to trial, the United States would have proved the same beyond a reasonable doubt.

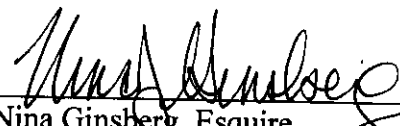


Robert Geoffrey Layne

I am Robert Geoffrey Layne's attorney. I have carefully reviewed the above Statement of Facts with him. To my knowledge, his decision to stipulate to these facts is an informed and voluntary one.



Jonathan Feld, Esquire
Attorney for Robert Geoffrey Layne



Nina Ginsberg, Esquire
Attorney for Robert Geoffrey Layne